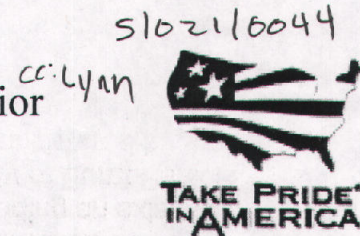




United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Color Country District Office

Cedar City Field Office

176 East DL Sargent Drive

Cedar City, UT 84721

Telephone (435) 586-2401

www.blm.gov/ut/st/en/fo/cedar_city.html

RECEIVED

OCT 31 2013

DIV.OF OIL, GAS & MINING

In Reply Refer To:

UTC01

3809: UTU-90123

October 28, 2013

Certified Mail – Return Receipt Requested

7013 1090 0000 3234 8364

DECISION
ADDITIONAL ACTION REQUIRED

Mr. Benjamin Terry
447 N 300 W, Suite 3
Kaysville, Utah 84037

Dear Mr. Terry:

This letter concerns your application for a small mine permit, submitted to the State of Utah, Division of Oil, Gas, and Mining, on October 3, 2013, and serialized by the Division as S/021/0044, the Emerald Mist Mine. The permit application proposes upgrading an existing access road and a two acre surface mine site on Federal lands in the vicinity of Burnt Peak in Iron County. As the proposed disturbances are located on Federal land administered by the BLM through this office, a copy of that application was forwarded to us via e-mail on October 15, 2013. Since the mine proposes removal of a locatable mineral from the Federal mineral estate, we are treating the mine application as a plan of operations submission under the applicable 43 CFR 3809 regulations.

More specifically, your application proposes to remove up to 20,000 tons of rock from the Emerald Mist 10 unpatented mining claim (UMC 38966). The rock would be transported offsite for processing for its alleged precious metals content. The proposed mine site is coincident with a prior exploration notice, UTU-82954, reclaimed in 2012. Under that notice, you conducted shallow exploration drilling and bulk sampling between 2008 and 2012.

Before we can proceed with processing the application under the applicable 43 CFR 3809 regulations, it will be necessary to meet with you and agree upon a process by which BLM can confirm the alleged presence of precious metals in the rock to be removed from the project site. You will recall that this office has previously tried to engage you in this fact-finding process. While the exploration work was been conducted, this office obtained a representative chip-channel sample from the bulk sampling trench and the analysis of that sample failed to disclose any anomalous precious metals concentrations. That negative result coupled with the fact that the proposed mine site is distant from any historic exploration/mining activity for precious metals, requires that BLM first confirm the presence of mineralization before we proceed with processing the plan submission. To do otherwise would violate BLM's regulatory mandate to prevent undue and unnecessary degradation (see 43 CFR 3809.401(a)).

I would invite you to contact Ed Ginouves of my staff at 435-865-3040, so that he can arrange a meeting to discuss the necessary verification process.

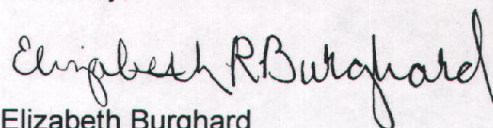
If you are adversely affected by this decision, you may request that the Utah BLM State Director review this decision. If you request a State Director Review, the request must be received in the Utah BLM State Office at P.O. Box 45155-0155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive or have been notified of this decision. The request for State Director Review must be filed in accordance with the provisions in 43 CFR 3809.805. This decision will remain in effect while the State Director Review is pending, unless a stay is granted by the State Director. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Utah BLM State Office to determine when BLM received the request for State Director Review. You have 30 days from the end of the 21-day period in which to file your Notice of Appeal with this office at Cedar City Field Office, 176 East DL Sargent Drive, Cedar City, UT 84721 which we will forward to IBLA.

If you wish to bypass a State Director Review, this decision may be appealed directly to the IBLA in accordance with the regulations at 43 CFR 3809.801(a)(1). Your Notice of Appeal must be filed in this office at Cedar City Field Office, 176 East DL Sargent Drive, Cedar City, UT 84721 within 30 days from receipt of this decision. As the appellant you have the burden of showing that the decision appealed from is in error. Enclosed is BLM Form 1842-1 that contains information on taking appeals to the IBLA.

This decision will remain in effect while the IBLA reviews the case, unless a stay is granted by the IBLA. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Sincerely,



Elizabeth Burghard
Field Office Manager

Enclosure: BLM Form 1842-1

cc: Lynn Kunzler, DOGM (S/021/0044, Emerald Mist Mine project)
Terry Snyder, USO

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL.....	A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the <i>Notice of Appeal</i> in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a <i>Notice of Appeal</i> in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
2. WHERE TO FILE NOTICE OF APPEAL.....	Elizabeth Burghard, Field Office Manager BLM - Cedar City Field Office 176 E DL Sargent Dr Cedar City, UT 84721
WITH COPY TO SOLICITOR.....	John Steiger Office of the Regional Solicitor 125 S State St, Suite 6201 Salt Lake City, UT 84138
3. STATEMENT OF REASONS WITH COPY TO SOLICITOR.....	Within 30 days after filing the <i>Notice of Appeal</i> , file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the <i>Notice of Appeal</i> , no additional statement is necessary (43 CFR 4.412 and 4.413). John Steiger Office of the Regional Solicitor 125 S State St, Suite 6201 Salt Lake City, UT 84138
4. ADVERSE PARTIES.....	Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the <i>Notice of Appeal</i> , (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).
5. PROOF OF SERVICE.....	Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).
6. REQUEST FOR STAY.....	Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a <i>Notice of Appeal</i> (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your <i>Notice of Appeal</i> (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the <i>Notice of Appeal</i> and Petition for a Stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. Standards for Obtaining a Stay. Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.